

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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NEWMARK GROUP, INC., G&E  
ACQUISITION COMPANY, LLC and BGC  
REAL ESTATE OF NEVADA, LLC

Plaintiff,

v.

AVISON YOUNG (CANADA) INC.;  
AVISON YOUNG (USA) INC.; AVISON  
YOUNG-NEVADA, LLC, MARK ROSE,  
THE NEVADA COMMERCIAL GROUP,  
JOHN PINJUV, and JOSEPH KUPIEC; DOES  
1 through 5; and ROE BUSINESS ENTITIES  
6 through 10,

Defendants.

Case No. 2:15-cv-00531-RFB-EJY

**ORDER**

Pending before the Court is Plaintiffs' Motion for Leave to Seal Exhibits to, and Redact Sections of, Plaintiffs' Motion to Exclude Portions of Carlyn Irwin's Expert Testimony. ECF No. 656.

As the party seeking to seal a judicial record, Plaintiffs must meet its burden of overcoming the strong presumption in favor of access and public policies favoring disclosure. *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178–79 (9th Cir. 2006) (holding that those who seek to maintain the secrecy of documents attached to dispositive motions must meet the high threshold of showing that “compelling reasons” support secrecy). Where a party seeks to seal documents attached to a non-dispositive motion, the “public policies that support the right of access to dispositive motions ... do not apply with equal force ... .” *Id.* at 1179 (citation omitted).

The mere fact that the production of records may lead to a party's embarrassment, incrimination, or exposure to further litigation will not alone compel the court to seal its records. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (9th Cir. 2003). Compelling reasons require a demonstration of something more, such as when court files have become a vehicle for improper purposes, including use of records to gratify private spite, promote public scandal,

1 disseminate libelous statements, or circulate trade secrets. *Nixon v. Warner Commc'ns*, 435 U.S.  
2 589, 598 (1978). Further, a party “may not simply rely on the Stipulated Protective Order ... to  
3 justify sealing documents filed in the record under seal.” *Heath v. Tristar Products, Inc.*, Case No.  
4 2:17-cv-02869-GMN-PAL, 2019 WL 12311995, at \*1 (D. Nev. Apr. 17, 2019) discussing and *citing*  
5 *Foltz*, 331 F.3d at 1133 (reliance on a blanket protective order, without more, will not make a  
6 showing of good cause); *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 475-76 (9th Cir. 1992)  
7 (blanket stipulated protective orders are over inclusive by nature and do not include a finding of  
8 “good cause”).

9 The Court reviewed the Motion to Seal, the exhibits sought to be sealed, and the redactions.  
10 The Court finds Exhibits 1, 3, 4, 6, 7, and 8 to Plaintiffs’ Motion to Exclude Portions of Carlyn  
11 Irwin’s Expert Testimony contain confidential and proprietary information that is properly sealed.  
12 The Court also finds the redactions in the publicly filed Motion are proper as they refer to the exhibits  
13 the Court agrees should be sealed.

14 Accordingly, IT IS HEREBY ORDERED that the Plaintiffs’ Motion for Leave to Seal  
15 Exhibits to, and Redact Sections of, Plaintiffs’ Motion to Exclude Portions of Carlyn Irwin’s Expert  
16 Testimony (ECF No. 656) is GRANTED.

17 IT IS FURTHER ORDERED that Exhibits 1, 3, 4, 6, 7, and 8 to Plaintiffs’ Motion to Exclude  
18 Portions of Carlyn Irwin’s Expert Testimony and the Motion itself, found at ECF No. 655, are and  
19 shall remain sealed.

20 Dated this 28th day of April, 2023.

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23 ELAYNA J. YOUCHAK  
24 UNITED STATES MAGISTRATE JUDGE  
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